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*Secretary of State*

# 2014 Committee to Review Election Laws

Committee Report  
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Prepared by:  
Mississippi Secretary of State

## 2014 Committee to Review Election Laws

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## Introduction

In the fall of 2014, Mississippi Secretary of State Delbert Hosemann compiled a committee to review election laws in the State of Mississippi (“Committee”). The Committee convened for three meetings, as well as subcommittee meetings as needed via conference call. The first meeting was held on September 10, 2014, at the Old Capitol Inn in Jackson, Mississippi. The second meeting was held on October 1, 2014 at the ITS building in Jackson, Mississippi. The third meeting was held on October 30, 2014, at the Clyde Muse Center of the Hinds Community College in Pearl, Mississippi. Chairman Jim Overstreet presided over the meetings.

The Committee discussed three general topics: (1) Party Primary Election Systems, (2) Early Voting, and (3) Online Voter Registration. This paper will provide an overview of each topic as well as a summary of group discussions and recommendations.

### 1. Party Primary Election Systems

Justin Fitch, Senior Attorney for the Executive Division of the Secretary of State’s Office, presented a summary of primary election systems throughout the country. Other than the independent candidate qualification process, a primary election determines which candidates proceed to the general election. Typically, the state legislature or Constitution determines the qualifications required of a candidate to be placed on the primary election ballot. Governmental entities typically pay for the costs associated with a primary election.

There are four major primary systems utilized in the United States: (1) Closed Primary, (2) Semi-Closed Primary, (3) Open Primary, and (4) Top-Two Primary. Some primary elections are partisan while others are nonpartisan. Partisan primary elections select a candidate based on party affiliation and include Closed, Semi-Closed and Open Primaries. Nonpartisan primary elections, such as top-two primaries, operate as one election where all voters and candidates participate on a single ballot.

While there are specific labels given to primary election systems, some states utilize a combination of more than one type of primary election system. Mississippi has been labeled as having several different types of primary election systems.

#### a. Closed Primary Election System

In Closed primaries, only voters registered with a particular political party may vote in that party’s primary election. For example, only Democrats registered with the Democratic Party

are allowed to vote in the Democratic Primary Election, just as only Republicans registered with the Republican Party are allowed to vote in the Republican Primary Election. This would be the same for all other party affiliations. Independent voters who are not registered with a party would not participate in Closed Party Primary elections. Each political party in a Closed Primary state prescribes the method for registering with a particular party.

Proponents of a Closed Primary election system believe closed primaries promote party unity and prevent non-members from “raiding” a party’s election. Closed primaries have been challenged over the right to “not affiliate with any party,” under the First Amendment to the U.S. Constitution. However, courts have held Closed Primaries to be constitutional. In 2012, the Idaho Republican Party sued the State of Idaho for the right to close its primary elections based on what the Republican Party believed was their constitutional right to “not affiliate with any party.” The primary election system was previously open. Following the lawsuit, all primary election systems in Idaho are closed unless a party chooses otherwise.

The states and territories with a legislative-mandated Closed Primary election system include: Colorado, Connecticut, District of Columbia, Delaware, Florida, Iowa, Illinois, Kentucky, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oklahoma, Oregon, Pennsylvania, and Wyoming.

Some states allow each political party to elect whether or not to have open or closed primary election systems. A dichotomy exists in some states --one party selects to be closed and the other party selects some other form of primary election. There are also states where both parties chose to remain closed. The states with a party-elected Closed Primary election system include: Alaska (Republican only), Idaho (Republican only), Kansas (Republican only), Maine, Maryland, North Dakota (Republican only), South Dakota (Republican only), and Utah (Republican only).

State law determines the requirements relating to primary elections and how much control a political party has over its primary system. If allowed by state law, the bylaws of a party may determine the method for registration and set the length of time to be registered with a party in order to vote in that party’s primary election. For example, some parties may require registration one (1) year in advance of the primary election, while other parties may allow registration on the day of the election. Some states even allow voters registered with one party to switch their registration at the polls to vote in another party’s primary election.

## **b.      Semi-Closed Primary Election System**

Semi-Closed primary election systems allow a party to choose whether to allow non-members to vote in a primary election. This method would allow unaffiliated voters to choose

any party primary to cast a ballot, while voters registered with a party may only vote in that party's primary election. A Semi-Closed primary election may require voters with no party registration to change party affiliation in order to participate in primary elections. Furthermore, voters who align with a particular party may still vote in another party's primary if they are registered as an independent voter. For example, the Republican Party in a Semi-Closed Primary state may allow independents or voters without a party affiliation to vote in the Republican Party Primary Election. The methods and procedures for conducting such an election would likely be detailed in the bylaws of the political party.

States with a state-mandated Semi-Closed Primary election system include: Arizona, Massachusetts, Nebraska, Rhode Island and West Virginia. According to Arizona law, if a primary election in Arizona does not have a Democrat candidate on the ballot, a registered Democrat in Arizona would be allowed to vote in any other political party primary.

In states with party-elected Semi-Closed Primary elections, such as North Carolina and South Dakota, the party determines whether to allow non-members or unaffiliated voters to participate in their elections.

### **c. Open Primary Election System**

Open Primary elections allow voters of any affiliation to vote in the primary election of any party they choose. Voters cannot vote in more than one party's primary election and typically do not have to declare party affiliation when registering to vote. Voters select the ballot, whether Republican, Democratic or any other party affiliation, and the voter's choice is limited to that ballot.

Some proponents consider Open Primary elections to be more conducive to voter participation by more openly welcoming independent or non-partisan voters. Others consider Open Primaries to encourage political raiding, or "crossover voting," where voters associated with one party participate in another party's primary election.

The Democratic Party of Hawaii (DPH) challenged the Open Primary, arguing Open primaries place a severe burden on its First Amendment right to Association and the ability to "limit its association to people who share its views." The DPH also believed crossover voting would spoil the candidate selection process of private organizations, but the federal court said the lawsuit was filed only on an assumption, and the DPH did not present evidence of this happening within the primary system. The Federal District Court stated it could not make a ruling based on an assumption and upheld the state's Open Primary election system.

States with state-mandated Open Primary elections include: Arkansas, Georgia, Hawaii, Indiana, Michigan, Minnesota, Missouri, Montana, Ohio, South Carolina, Tennessee, Texas, Vermont, Virginia, and Wisconsin.

States with party-elected Open Primary elections include: Alabama, Alaska (Democrat only), Idaho (Democrat only), North Dakota (Democrat only), and Utah (Democrat only). Alabama allows each party to determine whether it will utilize an Open or Closed Primary system, which essentially categorizes their primary system as Semi-Closed. However, both the Republican and Democratic parties in Alabama have chosen to use an Open primary system. Therefore, most resources categorize Alabama as an Open Primary state.

#### **d. Top-Two Primary Election System**

A Top-Two Primary election system is a two-part election system where all candidates appear on the same ballot, regardless of party affiliation. (Political parties do not hold primaries and, if they do, the primary is held outside the public election system.) The top candidates receiving the highest number of votes, regardless of political party affiliation, are placed on the general election ballot. The purpose is not to choose the nominee for a political party, but rather to narrow the list of candidates for the general election. Under this system, voters do not commit to one party's entire ballot. Voters are free to participate in the election on an office-by-office basis and may vote for any candidate of their choice, regardless of party affiliation, within the ballot.

Top-Two Primary proponents argue that not only does the system give equal access to the ballot for voters and candidates, it also results in more robust competition, especially in districts purely dominated by one party. Critics claim minor party and independent candidates have less of a chance to appear on the general election ballot with this system.

States with Top-Two Primary elections include: California, Washington, and Louisiana. Additionally, in Louisiana, if a candidate receives more than fifty percent (50%) of the vote in the first primary election, the candidate wins the election outright and a runoff election is not held.

#### **e. Mississippi's Primary Election System**

Kim Turner, Assistant Secretary of State for the Elections Division, presented a summary of Mississippi's party primary election system. Mississippi's party primary system has been defined by some as both Open and Semi-Closed.

Mississippi voters do not register by party affiliation and do not declare a party affiliation at the time of registration. However, Section 23-15-575 of the Mississippi Code Annotated provides a limitation that, “no person shall be eligible to participate in any primary election unless he/she intends to support the nominations made in the primary in which he/she participates.” A federal court has stated “there is no practical way to enforce Section 23-15-575.”<sup>1</sup> The court reasoned since Mississippi voters are not registered by party, do not present party identification, and cannot be asked if they intend to support the party’s nominations in the general election, no basis exists for determining the voters’ future intent. In fact, the Mississippi Attorney General opined, “[w]e find nothing that would allow a poll worker, poll watcher or another voter to ask a voter if he or she intends to support the nominees of the party once the voter presents himself or herself to vote.”<sup>2</sup>

Furthermore, there is an issue in Mississippi of “crossover voting,” which is defined as a voter’s participation in the first primary of one political party, then participating in the second (runoff) primary election of another political party. Section 97-13-35 of the Mississippi Code Annotated provides, “[a]ny person who shall vote at any election,..., or who shall vote or attempt to vote in the primary election of one party when he shall have voted on the same date in the primary election of another party, shall be guilty of a misdemeanor, and, on conviction, shall be fined not exceeding two hundred dollars, or be imprisoned in the county jail not more than six months, or both.” Several Attorney General Opinions and Mississippi case law have defined the first and second (runoff) primary election as one election, with the second (runoff) election described as a continuation of the first primary.<sup>3</sup> Therefore, Attorney General Opinions determine crossover voting is prohibited under Section 97-13-35.

#### **f. Louisiana’s Primary Election System**

Because the State of Louisiana has utilized different primary election systems over recent years, Louisiana Secretary of State Tom Schedler was asked to provide commentary on the pros and cons of each election system used in the State. Both Secretary Schedler and the Louisiana Commissioner of Elections, Angie Martin, provided an overview of the Top-Two Primary election system currently used in Louisiana and why it is preferred over the previously-used Closed election system. The Commissioner of Elections office retains all voting equipment, produces all ballots for all elections throughout the state, maintains the voter registration system, qualifies candidates for state elected office and provides election results. In her presentation, Commissioner Martin added the Top-Two Primary election system saves the State of Louisiana \$5-Million every two years.

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<sup>1</sup> *Mississippi State Democratic Party v. Barbour*, 491 F.Supp. 2d 641, 660 (N.D. Miss. 2007), *rev’d on other grounds*, 529 F.3d 538 (5th Cir. 2008).

<sup>2</sup> *Cole Opinion* (Miss. AG July 21, 2003)

<sup>3</sup> *Hon. Walter Brown* (Miss. AG April 7, 1988)



## **g. Group Discussion of Primary Election Systems**

Following the presentations on the party primary election options, Chairman Overstreet led a group discussion. Most Committee members favored the Top-Two Primary Election System because voters are allowed to cast ballots in all elections, regardless of party affiliation. One committee member noted that some voters prefer to vote for democrats for local offices and republicans for statewide offices, and the Top-Two system would allow voters to select their preferred candidate without committing to voting for one party exclusively. Members were also interested in the cost savings Louisiana experienced by conducting fewer elections by utilizing the Top-Two system. Several members provided their interest in voting based on a candidate's issues, rather than along party lines, and felt Top-Two would allow this result.

Party leaders voiced frustration current law was not enforceable and expressed concern the Top-Two Primary system would weaken political party strength.

Some student committee members believed young voters are likely not to vote along party lines. Secretary Schedler noted the fastest rising registration is registration as an independent, rather than with any political party affiliation.

Upon the conclusion of the first meeting, the entire Committee was divided into four subcommittees to more closely examine details of each system. The groups consisted of 12-13 members and each group was instructed to focus on one of the four major primary election systems: Closed, Semi-Closed, Open and Top-Two. Each group was provided a staff contact and conducted a meeting via conference call to discuss the pros and cons of their specific topic. Each group prepared a report to deliver to the Committee during the second meeting.

The chairperson of the Closed Primary subcommittee provided a report on the finding of the subcommittee. The members concluded the disadvantages of the Closed Primary system greatly outweighed the advantages. The chairperson noted Closed primaries limit voters to only voting in one party primary election, and this system excluded independent voters and moderate party candidates. The subcommittee felt Closed primaries discouraged the youth from participating in elections and had a negative impact on voter registration and minority voters. The consensus was minority voters would be less likely to register with a political party, and, therefore, would not be able to participate in a Closed Primary election. The only advantage the subcommittee found with a Closed Primary system was the preservation of party integrity. The subcommittee also believed any unenforceable provision in the current Mississippi law should be repealed, including Mississippi Code Annotated Section 23-15-575.

The chairperson of the Semi-Closed Primary system subcommittee provided a summary of the pros and cons of the Semi-Closed Primary election system. Although the subcommittee believed the Semi-Closed Primary system allows more moderate voters to participate in primary

elections, the chairperson noted this system also had more cons than pros. The system is expensive and inconvenient to voters because of party registration. Like the Closed system, one of the few pros to the Semi-Closed Primary is the protection of party integrity. The group reviewed the system with a perspective of what would be best for the voters of the state, and the group believed the Semi-Closed Primary was not the most beneficial for Mississippi.

The chairperson of the Open Primary subcommittee provided a summary of the Open Primary Election System. The subcommittee set three goals while reviewing the pros and cons of the Open Primary system: 1) protect voter privacy, 2) increase voter participation, and 3) reduce the costs per election. To improve upon Mississippi's current party primary system, the subcommittee suggested the repeal of Mississippi Code Annotated Section 23-15-575, and the consolidation of both the Republican and Democratic Party Primary Election into a single primary election, meaning each polling place would conduct a single election, thus having only one (1) check-in table staffed by poll workers chosen equitably from both participating political parties, with a single poll book and a single receipt book. In furtherance of protecting voter privacy, the subcommittee advocated the use of voting machines which offer the voter the ability to choose either a Republican or Democratic ballot; however, the voting machines used in Mississippi are incapable of offering voters this option.

The members also considered a caucus system, whereby the political parties could choose and offer a slate of candidates for the November General Election, as opposed to Mississippi voters choosing each party's nominees through primary elections. Although a caucus system would clearly reduce the costs to the state and counties by eliminating the primary elections, the selection of a slate of party candidates appeared to the committee reminiscent of "back room politics." Also, concerns were voiced that, by a caucus system, only the most fringe or zealot members of a particular party may have the sway to place a candidate on a caucus slate, who might not have otherwise won by a popular vote of Mississippi voters.

The members of this subcommittee favored a Top-Two party primary system primarily because Mississippi voters must be able to participate in both political parties' elections if voters are to cast a ballot of their own choosing for both statewide and local level candidates. However, all were reluctant to move forward with this recommendation by reason of the time and effort which would be required to educate Mississippi election officials and voters to a new system. Ultimately, the Open Primary subcommittee concluded it was best to improve upon the existing system.

The chairman of Top-Two Primary Election System subcommittee provided a summary of the pros and cons found by the subcommittee members. The chairman concluded the Top-Two Primary Election System had substantially more advantages than disadvantages. The

subcommittee noted candidates would still be allowed to include party affiliation on the ballot. The subcommittee also noted research statistics providing candidates in other states with a Top-Two Primary system were not different than other systems; meaning, the top two candidates selected would have been elected in any other system. Subcommittee members believed the Top-Two Primary system would lead to election results based upon the issues of the election. Subcommittee members also noted research found more independents voting in Top-Two Primary elections, producing more moderate candidates and increased voter participation. The subcommittee also believed some voters would like the competition of candidates which might not typically be in their primary election. Thus, candidates would approach voters which would not typically vote in their primary election. A Top-Two Primary election system would appear to operate as a general election with a runoff, rather than a primary election which narrows the list of candidates of a political party for a general election.

Chairman Overstreet opened the floor to the committee members to provide their individual opinion of the best system for the State of Mississippi. One member explained party affiliation should remain because of the long party history in the state. Many members favored the Top-Two Primary system, because the Top-Two Primary system would require the candidates to address the issues. Several members were in favor of the Top-Two Primary system but wanted to gather more information in order to make an informed decision. One member stated the Top-Two Primary system allowed party affiliation to remain and allowed voters to have a greater voice. Another member suggested the system bringing more voter participation would be the best system. Many of the members were concerned with voter participation in general.

At the conclusion of the discussion during the second meeting, the committee decided to eliminate the Closed and Semi-Closed Primary systems and gather additional information on the Open and Top-Two Primary systems. Subcommittees were created to gather additional information and met via conference call. The chairman of each committee prepared a report of their finding at the third and final meeting.

The chairman of the Top-Two Primary subcommittee reported the findings of the subcommittee. The chairman noted the Top-Two system dispels the issues of voters wanting to support a Democrat at the local level but vote Republican at the state level. The chairman also noted that California's Top-Two Primary election most often produces a Democrat versus a Republican for the November general election. The pros of the Top-Two Primary election system proposed by the subcommittee included a longer time period for circuit clerks to work on post-election proceedings, without the possibility of a run-off in the primary election. For example, the Uniformed and Overseas Citizens Absentee Voting Act (also known as UOCAVA) requires all eligible military and overseas absentee voters who request timely request an absentee ballot be provided an absentee ballot at least forty-five (45) days prior to each federal election. To ensure

compliance with UOCAVA, Mississippi last year adopted by temporary administrative rule a ranking system to enable these voters to cast an absentee ballot in a primary runoff election at the same time as casting an absentee ballot in the primary election. Other pros included: (1) voters may vote for the most qualified candidate on the ballot rather than along party lines. (2) voters are not excluded from voting for a certain party or individual, (3) campaigns are allowed to focus on issues rather than party rhetoric, (4) a Top-Two Party system could increase voter turnout, and (5) voters would not be prohibited from voting for one party in a statewide election and voting for a different party in a local election.

The subcommittee found the cons of the Top-Two Primary election system included: (1) political party integrity may suffer, (2) party loyalty could be compromised, and (3) the primary election is essentially lost.

The chairman of the Open Primary system discussed the findings of the subcommittee. The group remained concerned with increasing voter participation and reducing the costs of elections to the state/counties/municipalities. The subcommittee again recommended the consolidation of the Democratic and Republican Primary Elections into a single primary election, as explained above. Implementation of this recommendation requires an amendment to Mississippi Code Annotated Section 23-15-303, which presently requires each primary election to be conducted “entirely independent” of the other but at the same time. With the consolidation of the primary elections, the number of poll workers would be reduced by one-half throughout the state; thus, with that cost savings, the subcommittee recommended an increase in poll worker compensation as currently provided by Mississippi Code Annotated Section 23-15-227. Recognizing Mississippi Code Annotated Section 23-15-575 was unenforceable as written, the subcommittee again recommended repeal of this statute. To ensure crossover voting was strictly prohibited by Mississippi law, the subcommittee lastly recommended the amendment of Mississippi Code Annotated Section 97-13-35.

Chairman Overstreet opened the floor for discussion following the subcommittee reports and then proceeded to take a vote on the primary system each member supported for the State of Mississippi.

One member noted the voter participation in the presidential election of 2012 in Louisiana and Mississippi yielded the same participation percentage of 60%, even though the states have different primary election systems. The highest turnouts, as noted by the same member, were in Minnesota and Wisconsin, which use the open primary system.

Chairman Overstreet instructed the two primary election systems available for recommendation by the committee were the current Mississippi system with amendments, and the Top-Two Primary system. The committee members discussed the differences in costs of the two systems. One member reiterated the Open Primary subcommittee previously concluded the

Open Primary system would not be the best system for Mississippi. The discussion of the Open Primary subcommittee shifted to a focus on increased voter participation for the current system in the State of Mississippi.

The committee voted on the primary system each member supported for the State of Mississippi. Forty-six percent (or 23 members) voted for the Top-Two Primary election system while forty percent (or 20 members) voted for amendments to the current Mississippi primary election system. Seven (7) members abstained from voting on this topic.

## **2. Early Voting**

Kim Turner, Assistant Secretary of State, provided the committee with the Early Voting presentation during the second meeting on October 1, 2014. Due to time constraints, the discussion carried over to the final meeting on October 30, 2014.

The term “early voting” is often used to describe three (3) separate forms of voting: 1) early in-person voting, 2) no excuse absentee voting, 3) permanent absentee voting, and 4) voting by mail. Early voting enables registered voters to cast a ballot at an election officials’ office or, in some states, other satellite voting locations as provided by statute, prior to the date of an election without the need for submitting an application or providing a statutory reason or excuse for why the voter is unable to vote on Election Day. The time period during which early voting takes place varies by state; however, the average starting time for early voting is twenty-two (22) days before an election and the average period is nineteen (19) days. Thirty-three (33) states and the District of Columbia have adopted early voting.

States which have adopted no excuse absentee voting typically require a voter to complete an application in order to receive an absentee ballot but, as the name implies, the voter is not required to provide a statutory reason or “excuse” to be eligible to cast an absentee ballot. Some states provide applications on-line for voters to print and send, while applications in other states, such as Florida, Louisiana, Maryland, Minnesota and Utah, may be entirely submitted on-line. Upon submission of a complete application, an eligible voter is provided a paper absentee ballot, usually by mail. Twenty-seven (27) states and the District of Columbia permit “no excuse” absentee voting.

As permitted by statute, voters in certain states may join a permanent absentee voting list, which entitles the voter to automatically receive an absentee ballot for all future election. All voters in Arizona, California, Hawaii, Montana, New Jersey, Utah and the District of Columbia are eligible to join the permanent absentee voting list. In eight (8) other states, such

as Mississippi<sup>4</sup>, only those voters who meet certain statutory criteria are eligible to join the permanent absentee voting list.

Oregon, Washington and Colorado conduct all elections entirely by mail. By this system, an absentee ballot is automatically mailed to each and every eligible voter approximately two (2) weeks before the date of an election. As permitted by specific statutes, ballots may be returned by mail or returned in person at the county election offices or other satellite locations. No request for an absentee ballot or application is ever completed by the voter. In addition to these three (3) states, nineteen (19) other states conduct certain elections by mail.

Mississippi, as well as nineteen (19) additional states, affords eligible voters the ability to cast an absentee ballot, but requires the voter to complete an application beforehand and provide a reason or excuse why the voter is seeking to vote by absentee ballot. Mississippi's absentee voting laws enable registered voters to cast an absentee ballot, beginning forty-five (45) days prior to an election day, and ending at noon on the Saturday before a Tuesday election for those voters casting an absentee ballot in person in the Circuit Clerk's Office or the day before the election for those eligible voters casting an absentee ballot by mail. There are fourteen (14) statutory reasons why a Mississippi voter may request an absentee ballot:

1. Enlisted or commissioned member of any component of the Armed Forces, spouse or dependent of such member,
2. Member of the Merchant Marines or American Red Cross, spouse or dependent of such member,
3. Disabled war veteran who is a patient in any hospital, spouse or dependent of such veteran,
4. Civilian attached to and serving outside of the United States with any branch of the Armed Forces, the Merchant Marines, or American Red Cross, spouse or dependent of such civilian,
5. Citizen of Mississippi temporarily residing outside territorial limits of United States and the District of Columbia, spouse or dependent if also absent from the county of his/her voting residence on election day,
6. Student, teacher or administrator whose employment or studies necessitate his/her absence from his/her county of voting residence, spouse or dependent who maintains a common domicile outside the county of voting residence,
7. Person who will be outside his/her county of residence on election day,

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<sup>4</sup> See Mississippi Code Annotated Section 23-15-629 pertaining to the eligibility of voters who are permanently physically disabled to join a permanent absentee voting list.



8. Person required to be at work on election day during the times at which the polls will be open,
9. Person who have a temporary or permanent physical disability,
10. Member of the Mississippi Congressional delegation, spouse or dependent of such member,
11. Parent, spouse or dependent of a person having a temporary or permanent physical disability who is hospitalized outside his/her county of residence or more than 50 miles away from his/her residence who will be with such person on election day,
12. Trained or certified emergency response provider deployed during the absentee voting period on election day or during any state of emergency,
13. Citizen of Mississippi enrolled as a student at a United States Military Academy, spouse or dependent of such student, or
14. Person sixty-five (65) years of age or older.

Under Mississippi law, certain voters may be eligible to receive and return an absentee ballot by mail, while other voters may be eligible to receive and return an absentee ballot by email and/or fax. Regardless of whether a voter is required to cast an absentee ballot in person in the Circuit Clerk's Office of his or her residence or may cast an absentee ballot by mail, email or fax, all Mississippi voters must properly complete an application and provide a statutory excuse for why he or she is eligible to vote by absentee ballot.

Thirty-three (33) states have implemented some form of early voting. Three (3) states allow voting by mail, but the majority of early voting states uses no-excuse absentee voting or provides a list of allowable reasons to early vote. A pure early voting system allows individuals to appear at the circuit clerk's office (or other authorized location) and cast a normal vote.

During the discussion questions arose regarding the integrity of votes cast early. The committee determined methods were available for protecting the integrity of votes and believed early voting results should not be released before Election Day. Several members suggested allowing two (2) weeks for early voting. Members also encouraged the consideration of expanded or shifted hours for clerks' offices to allow voters to cast a ballot outside normal working hours. The committee voted thirty-six (36) to three (3) in support of early voting for a period of two (2) weeks prior to Election Day, without requiring an application or excuse. Eleven (11) members abstained from voting. The committee also noted small circuit clerk offices may require extra staff to fulfill any requirements of extra hours of operation.

### **3. Online Voter Registration**

On October 30, 2014, the committee held its final meeting to discuss Online Voter Registration. Preston Goff, Policy and Research Division Senior Attorney, provided a presentation followed by group discussion.

The voter registration application is transmitted electronically to the circuit clerk who must then individually approve or reject the application before the voter is actually registered. This is very similar to the paper application process, except the circuit clerk would no longer be required to physically enter the data from the paper form into the Statewide Election Management System (SEMS). The electronically filed application could simply be accepted by the clerk and all data fields transferred in SEMS.

Approximately half of the states have adopted some form of online voter registration. The cost has averaged between \$250,000.00 and \$750,000.00. Despite the initial cost, many states reported online registration provided a significant cost savings, by both reducing cost on paper and on printing, as well as reducing data entry duties by the Circuit Clerk. Without a thorough review of the existing system to determine the amount of work needed to build a new, or expand an existing, information sharing system, an estimated cost for implementation in Mississippi cannot be calculated at this time.

Some published reports concluded online voter registration improves voter roll accuracy by reducing user error. Under current law, a Mississippi resident completes a Voter Registration Application which may be hand-delivered or mailed to the Circuit Clerk in the county of the voter's residence. If the application is complete, the Circuit Clerk accepts the application and manually enters the voter's personal information into SEMS. The online registration system removes any data entry errors from the process. An individual is responsible for entering their own information completely and correctly, and the Circuit Clerk is thereafter able to ensure the individual is a qualified voter before finalizing the registration.

Most online systems work in a similar manner. The voter provides basic identity information used to confirm his or her identity against the state's driver's license database. If the identity information matches the driver's license database, and a signature is on file, the voter is allowed to proceed with the online application. The final application and signature file are then forwarded to the appropriate Circuit Clerk to either accept or reject the application. If there is no match, or no signature file available, the individual is informed their online application cannot be processed. The registrant must print, sign, and deliver the form to the appropriate Circuit Clerk's office. Currently, SEMS verifies the required driver's license number provided by voter registration applicants against the Mississippi Department of Public Safety's database. An online system would expand upon the communication abilities between SEMS and the DPS database. Once an electronic registration application is received and accepted by the Circuit Clerk, a voter



registration card would be mailed to the voter, as is the procedure under the current system.

The committee discussed matters regarding online security, but recognized the need for Information Technology professionals to address these issues. Many states maintain a separation between the online registration website and the actual election management system as a safety precaution. Individuals are not automatically registered when they click “submit” on the application, and the voting application information cannot be entered into the election system by anyone other than the Circuit Clerk.

One committee member questioned how information would be stored, and if someone could be removed from the voter roll using an online voter registration system. Assistant Secretary of State Kim Turner explained the process for purging voters is outlined in federal law, and an online system would be used for registration and updating voter information only.

Other questions related to confirmation and access to the online system to individuals without identification issued by Department of Public Safety. Only Missouri offers access to online voter registration to individuals without a driver’s license by using touch-screen signature device which would increase implementation costs. Missouri allows signatures to be attached to the application by use of a touch screen device. The Committee recommended utilization of the Department of Public Safety’s database.

Following the discussion, the committee voted thirty-two (32) to six (6) to recommend the Legislature adopt online voter registration in Mississippi. Twelve (12) members abstained.

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## **Committee Recommendations**

### **1. Party Primary Election Systems**

The committee voted on the primary system each member supported for the State of Mississippi. Forty-six percent (or 23 members) voted for the Top-Two Primary Election System while forty percent (or 20 members) voted for amendments to the current Mississippi primary election system. Seven (7) members abstained from voting on this topic.

### **2. Early Voting**

The committee thirty-six (36) to three (3) in support of early voting for a period of two (2) weeks prior to Election Day, without requiring an application or an excuse. The group also noted small circuit clerk offices may require extra staff to fulfill any requirements of extra hours of operation. Eleven (11) members abstained from voting on this topic.

### **3. Online Voter Registration**

The committee voted thirty-two (32) to six (6) to recommend the Legislature adopt online voter registration in Mississippi. Twelve (12) members abstained from voting on this topic.



DELBERT HOSEMAN  
*Secretary of State*

